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August 26, 2003

Federal Maritime Commission (FMC)

Mr. Bryant L. VanBrakle / Secretary
800 North Capital Street, NW
Washington, DC 20573

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FEDERAL MARITIME COMMISSION

Re: Petition No. **P3-03** / UPS Petition for NVOCC-Client Service Contracts
Petition No. **P5-03** / NCBFAA Petition for Exemption for Tariff Filing for NVOCC

Dear Ladies & Gentlemen,

Reviewing these two petitions and their intent, may I suggest considering a joint review as there are certain overlaps and issues that may make a broader view more appropriate. Obviously maritime shipping practices are rapidly changing, and it may certainly be time to make changes to the underlying requirements.

In a nutshell, my recommendation to the FMC would be to accept the NCBFAA petition **P5-03**, as this would almost certainly eliminate the core issues presented UPS petition **P3-03**. Please find following my more detailed comments and reasons that have lead me to my recommendation:

Petition No. P3-03:

1. The "real world" need for NVOCC shipper service contracts are somewhat limited, and if anything more pressing and valuable for **NVO's** that offer nothing but NVOCC services. For all multinational and most US based logistics providers (such as UPS), NVOCC services are "only" a value added service offering complementing their customs brokerage, airfreight, freight forwarding, warehousing and other logistics services.
As such, any shipper client already can sign a complete "service contract" for the total service package being provided by the logistics provider. Just that the included NVOCC service portion will still need to be filed in the **NVO's** tariff.

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2. So the value of petition **P3-03** for the general shipping public is somewhat questionable, as any shipper I know could receive all the benefits needed from a service agreement signed under the customs broker/freight forwarder umbrella. Obviously the NVOCC portions would adequately need to be filed in the NVO's tariff, so it seems that petition **P3-03** is possibly focusing more on eliminating the tariff filing requirement for NVO's.
3. Granting petition **P3-03** would potentially create a flood of NVOCC service contracts with shippers, as a contract could be signed even for a very limited amount of shipments/volume. Considering the cost of tariff filing and tariff maintenance for NVO's, I see this as a real possibility since it may be less costly to manage a small service contract than to file and maintain rates in a NVOCC tariff.
4. In addition, if a "minimum volume/size" would be required for a NVOCC shipper contract, this would unfairly burden the smaller shippers and add unnecessary cost to their shipments.

As a stand-alone petition, **P3-03** certainly would be a step in the right direction and welcomed by the trade, but when considering the broader scope of petition **P5-03** it seems to make more sense to carefully evaluate **P5-03**. Especially, if tariff filing for NVO's could be eliminated the need for NVOCC shipper service contracts would not even be an issue as specific individual rates and services could be tailored to the individual shipper's needs.

Petition No. P5-03:

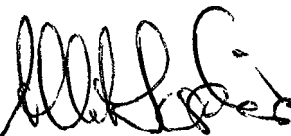
1. In my over 24 years in international transportation working in management positions for service providers (freight forwarders, NVOCC and customs brokers) and as a consultant to shippers, not once did a shipper ever ask for the published NVOCC rate or even attempted to verify if the rate was correctly filed in the NVOCC tariff. The shippers in question included everyone from Fortune 100 companies to very small family owned business.
2. Shippers procure NVOCC (or ocean freight services – as many shippers do not even separate the term NVOCC from freight forwarder) services today the same way they purchase air freight, freight forwarding, customs brokerage, trucking, warehousing and other logistic services: What is my total net cost from point A to B? How competitive is the offer? How fast is the service? How reliable is the service? In addition, shippers are used and often take advantage of rate fluctuations due to seasonal or other variances in all modes of transportation.

3. In many personal meetings with shippers, not one indicated that they were concerned about tariffs or indicated they had any interest in verifying that a certain **NVO** rate was appropriately filed in the NVO's tariff. Shippers did place a large emphasis on the fact that the NVOCC service was competitive, meeting their very own service and pricing requirements/expectations. In addition, shippers expect reliable service and a financially sound **NVO** as vendor.
4. As shippers see no value in NVOCC tariffs, eliminating NVOCC tariff rate filing would actually benefit shippers, as NVO's would eliminate a considerable amount of cost from their business and thus offer their clients a better bottom line rate.
5. Certainly, bonding and licensing (for U.S. corporations) should not be eliminated, but minimum standards should be enforced more vigorously. In addition, any NVOCC registered/licensed with the FMC should be required to obtain **NVO** carrier legal liability insurance coverage. Currently, most US companies operate without such insurance, which greatly benefits shippers, as it is not required under the current FMC regulation. Contrary, overseas foreign NVO's are only able to issue a **FIATA B/L** (the international **NVO B/L** standard) in their country if they can provide proof of carrier liability insurance coverage. This would greatly complement the existing bonding requirements and would be much more beneficial to shippers than tariff filing.

I therefore strongly recommend and support a limited exemption from certain tariff filing requirements for **NVOCC's** as requested in petition **P5-03**. If I can be of further assistance or if any clarification is required, please do not hesitate to contact me at any time.

Thank you for your continued excellent efforts and improving ocean shipping in the U.S.A.

Sincerely,



Albert W. Saphir